

MASTER AGREEMENT WITH: CALIFORNIA WATER SERVICE COMPANY

(Form #)

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Reference to this Master Agreement should be “per agreement dated May 13, 1955 as amended May 11, 1962”.

The following is a consolidation of the Amendment dated May 11, 1962 into the original Master Agreement dated May 13, 1955. The sections that have been changed or added to conform to the language in the amendment are in *italics*.

This brief highlights only the major points of the Master Agreement. The Agreement should be studied carefully before taking any action under its terms.

This Agreement governs the apportionment of the cost of rearrangement of facilities owned by this Company in connection with freeway projects in lieu of the provisions of Section 700, et seq. of the Streets and Highways Code. In other words, the provisions of the Streets and Highways Code and other laws have no application to the rearrangement of the facilities on freeway projects for this Company, and are replaced by the terms of this Master Agreement. This agreement does not affect relocations on conventional highways.

The Agreement apportions the cost of rearrangements on a 50/50 basis. There is no provision for 100 percent participation by either the Company or State as there is in some of the other Master Agreements.

This Agreement contains a unique provision. The Agreements with the majority of other companies require that the companies quitclaim their right of way to the State when their facilities are entirely dismantled or removed from right of way within a freeway, pursuant to a rearrangement under a Master Agreement.

California Water Service Company, in some instances, owns and operates pipelines and other utility facilities located on well fields and other properties which it owns in fee or easement for the development of water. Under these circumstances the Company should not be required to quitclaim its entire interest in those

properties within the freeway right of way.

Where the Company owns a right of way 25 feet (7.62 m) or less and its pipelines have been entirely removed or completely dismantled, the Company will still be required to quitclaim its right of way to the State under Section 10 of the Agreement.

However there is a limitation in Section 10 to avoid inequitable operation of the Section. The Section provides that the State and the Company are permitted to agree upon the width of the right of way to be quitclaimed, with the further provision that if the State and the Company cannot agree, the Company is nevertheless required to quitclaim the right of way on which the pipeline or other facilities are located, but in no event is the Company in such case required to quitclaim a right of way in excess of 25 feet (7.62 m) (12 ½ feet (3.81 m) on either side of the facility). The Company's property in excess of the 25-foot (7.62 m) strip within the freeway right of way must be obtained from the Company by negotiation or by condemnation.

Encroachment Permits will be issued for placements under this Agreement. The statement "For record purposes only," will not be used on these permits. "Freeway Permits" are not to be issued in connection with this Agreement.

Joint Use Agreements will not be entered into to cover any case that falls under this Agreement, as all installations that are to be made within the State highway right of way shall be under standard Encroachment Permit.

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MASTER AGREEMENT

AGREEMENT

THIS AGREEMENT, made and entered into this 13th day of May, 1955, by and between the STATE OF CALIFORNIA, acting through the Department of Public Works, hereinafter designated "Department," and CALIFORNIA WATER SERVICE COMPANY, a corporation, hereinafter designated "Utility,"

WITNESSETH:

In consideration of the respective promises of the parties hereto, it is hereby mutually agreed as follows:

Section 1. This contract is made and executed by the parties hereto pursuant and subject to the provisions of Section 707.5 of the Streets and Highways Code of the State of California as said section now exists. It is in compromise and settlement of the diverse disputes between the parties hereto in respect to the subject matter covered hereby. It is not intended to, and shall not, establish any precedent, principle, rule or guide to interpretation, as between the parties hereto after its termination or as between either of the parties hereto and any third party at any time.

Section 2. This contract may be amended, changed or altered by mutual consent of the parties hereto in writing.

Section 2.5 This contract shall inure to the benefit of, and shall be binding upon, the successors and assigns of the parties hereto.

Section 3. Unless sooner automatically terminated as provided by law, this contract shall terminate not less than one (1) year after notice of termination in writing given by one party hereto to the other; and in the event of either such termination, the laws applicable to the subject matter of this contract as existing at the time of such termination shall thereafter govern, save as to removals or relocations, hereinafter referred to as rearrangements, of utility facilities of Utility theretofore required of Utility by the Department under notice mailed or delivered to Utility prior to such termination, whether work upon such rearrangement has theretofore

commenced, is in progress, or has been completed.

Section 4. This contract shall govern exclusively the determination of the obligations and costs to be borne by each party hereto in regard to every rearrangement hereunder of utility facilities of Utility to be undertaken or completed by Utility as required by notice given by Department to Utility on or subsequent to April 1, 1954, in lieu of the determination thereof under the provisions of Sections 700 to 707, inclusive, of said Streets and Highways Code as now or hereafter existing and all other laws which would be applicable to said subject matter but for this contract.

Section 4.5. This contract shall have no application to any removal, relocation or rearrangement of utility facilities of Utility under notice given by Department to Utility prior to April 1, 1954, except that (i) Department shall be and remain bound by the provisions in any such notice or in any Utilities Agreement appertaining thereto specifying that Department will pay the cost of the rearrangement thereunder in whole or in part; and (ii) Department will forthwith after the execution hereof pay Utility the sum of Seven Thousand Five Hundred Eleven and 05/100 Dollars (\$7,511.05) in full settlement and satisfaction of any and all other claims of Utility against Department in respect to all such removals, relocations or rearrangements, and upon such payment, Utility will thereafter neither advance nor prosecute any claim in respect thereto against Department.

Section 5. As used in this contract, the following terms have the following meanings:

(A) (i) "Freeway" means a highway under the jurisdiction of the Department in respect to which, and along the right of way of which, the owners of abutting lands have no right or easement of access to or from their abutting

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lands or only a limited or restricted right or easement of such access. It also includes a like contemplated highway where the California Highway Commission has selected, adopted and determined the location of the same and declared the same to be a State freeway, and where Department has delineated on its records the right of way thereof along which the owners of abutting lands have or are to have no or only a limited or restricted right of access as aforesaid.

(ii) "Service road" means a highway or contemplated highway while under the jurisdiction of Department and which was or is about to be established along or adjacent to a freeway to provide ingress and egress to and from said freeway to the owners of abutting lands along such freeway, and Department or other proper public authority has delineated on its records the right of way thereof.

(iii) "Public road" includes freeways, service roads, and all other highways and streets, whether under the jurisdiction of Department or of any county, city, district or other public authority within this State, with right of way as delineated on the records of the public authority having jurisdiction thereof.

(B) (i) "Utility facilities" include every pipe, conduit, manhole, service, service meter, ditch, canal or flume which ditch, canal or flume is used for direct service of water to customers, every fitting and gate valve and all appurtenances to the foregoing constituting a part of a water transmission or distribution line owned by Utility, or a part of a communication line owned by Utility and used in aid, in whole or in part, of any transmission or distribution line aforesaid. "Utility facilities" do not include:

- (a) any buildings of Utility or any utility facilities therein; or
- (b) any production, storage, purification or pumping facility, any ditch, canal or flume used in the production or transmission of water or any appurtenances of the foregoing situated on property in which utility holds an interest, except any such ditch, canal or flume used for direct service of water to customers or appurtenances thereof; or
- (c) Utility's so-called Powers Ditch, as

presently maintained or as maintained by utility from time to time in the future, extending from Coal Canyon Power House of Pacific Gas and Electric Company in the County of Butte to Utility's Oroville Reservoir in the vicinity of the City of Oroville, or

(d) any other property of Utility, whether real or personal or whether or not devoted to public use, not included within "utility facilities" as above defined.

(ii) Where Utility is the owner of a part of, or of a present undivided part interest in, any such utility facilities, whether through ownership of stock in a subsidiary corporation or otherwise, this agreement shall apply to such utility facilities to the extent of such interest.

(iii) Where Utility is lessor or licensor of any such utility facilities or any part thereof or of space thereon or therein, this agreement shall also apply to those utility facilities owned by or under the control of the lessee or licensee unless Utility notifies Department of the interest of such lessee or licensee not later than thirty (30) days after receipt from Department of a notice of a rearrangement hereunder; and in such case the parties hereto shall thereupon endeavor to make satisfactory arrangements with such lessee or licensee; and failing such arrangements, Department shall proceed as to said interest of such lessee or licensee pursuant to law or any contract between Department and such lessee or licensee.

(iv) Where Utility is the lessee or licensee of any such utility facilities not owned by Utility, this agreement shall not apply and Utility shall have no claim against Department in respect to any rearrangement thereof unless Utility notifies Department of its said interest at its earliest opportunity after knowledge of any such rearrangement affecting said interest; and in such case, this agreement shall apply to the extent of such interest of Utility unless other satisfactory arrangements be made by the parties hereto in respect thereto.

(C) "Rearrangement of utility facilities" includes the following as required by a notice given by Department to Utility:

(i) It must include expenditures in respect to existing utility facilities necessary to accommodate a freeway or a service road or any portion thereof. The work involved therein must consist of

(a) the dismantling of, or other work upon, existing utility facilities within the right of way of a freeway or any other public road or on other real property, or

(b) , if the Utility is not required by Department to dismantle and remove such existing utility facilities, the replacing of such existing utility facilities with other utility facilities within the right of way of a freeway or any other public road or on other real property, where such work specified in clauses (a) and (b) above is occasioned by and of benefit to the construction, improvement, maintenance, operation or use of a freeway or a service road.

(ii) It also includes any other expenditures in respect to other utility facilities occasioned by the work specified in subdivision (i) hereof and where necessary to furnish Utility with utility facilities of corresponding standards and usefulness and to enable Utility to continue a corresponding service.

(iii) It may also include additional expenditures upon utility facilities, commonly known as "betterments," added at the instance of Utility for its purposes.

Further, the work involved within said term "rearrangement of utility facilities" includes the dismantling of, or other work upon, existing utility facilities, with or without reinstallations to continue the service, whether such reinstallations are of the dismantled or other utility facilities; and may be temporary or permanent in nature or both; and may be performed within or without the right of way of a freeway or other public road; and may be performed within, over or across real property owned in whole or in part by Department, Utility or a third party.

(D) "Cost of a rearrangement" includes the actual and reasonable (or, if indeterminable, the estimated) cost of.

(a) all necessary labor and transportation, and of all necessary materials exclusive of any dismantled utility facilities used in any of the reinstallations, involved in the rearrangement, together with reasonable and usual indirect and overhead charges attributable to any thereof, exclusive of the cost, computed in like manner, attributable to any betterments hereinabove mentioned involved in the rearrangement, and less:

(i) the value as salvage, as ascertained under the regular public utility accounting practices of Utility, of all utility facilities dismantled and removed by Utility and not used in any of the reinstallations;

(ii) the accrued depreciation, as ascertained under the regular public utility accounting practices of Utility for its depreciation reserve purposes, of all dismantled utility facilities not used in any of the reinstallations; and

(iii) any charges appertaining to the rearrangement paid or required to be paid by any customer of Utility (including Department where a customer of Utility) pursuant to law or agreement between such customer and Utility (or an agreement between Department and such customer for the express benefit of Utility) and

(b) any necessary new private right of way of Utility for any of the reinstallations involved in the rearrangement, exclusive of such right of way for such of said reinstallations as may reasonably be located within the right of way of a public road, or on other real property under the jurisdiction of Department, and without charge to Utility or credit to Department.

Section 6. Whenever Utility claims reimbursement for the cost, in whole or in part, of any rearrangement hereunder, Utility shall, upon the completion of such a rearrangement, submit to Department an itemized statement of such cost; and, Utility shall upon request, make available for inspection or audit its books and records appertaining thereto; provided, that the parties hereto may estimate and agree in advance upon the amount of such reimbursement where not exceeding One

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Thousand Dollars (\$1,000) and where specified in the notice given by Department to Utility or an amendment thereof.

Section 7. (a) It is contemplated that Utility will submit to Department plans and specifications of a rearrangement; and that the parties will endeavor to agree in respect thereto prior to the giving of notice by Department to Utility of a rearrangement required by Department.

(b) The parties hereto may implement this contract in the foregoing or other particulars by procedures to be agreed upon between them.

Section 8. Department will give Utility notice in writing (in form, identical with or similar to present Right of Way Form 40 or 41 of Department) of each rearrangement of utility facilities of Utility pursuant to agreed plans or, if none, as may reasonably be required by Department. Utility will thereupon undertake, or cause to be undertaken, the rearrangement of its utility facilities pursuant thereto with reasonable dispatch. Further, Utility shall permit Department immediate entry upon, and use of, all right of way of Utility for utility facility purposes whenever necessary for a freeway purpose which occasioned such notice and where not inconsistent in time or manner of exercise with the due discharge by Utility of its said undertaking with respect to said rearrangement and with its discharge of its duty as a public utility.

Section 9 (A) *The cost of each rearrangement under a notice given by Department to Utility on or subsequent to January 1, 1962, shall be divided and borne seventy-five percent (75%) by Department and twenty-five (25%) by Utility, except as hereinafter provided. The cost of each rearrangement under a notice given by Department to Utility on or before December 31, 1961 shall be divided and borne equally by the parties hereto, except as hereinafter provided.*

(B) If Department, by amended, revised or new notice given to Utility, changes a rearrangement under a prior notice given by Department to Utility before the completion of such rearrangement or of the work on that portion of the freeway or service road which occasioned such prior notice, Department will pay in entirety that portion of the cost of the rearrangement expended by Utility before such change to the

extent such expenditures are rendered useless or wasted by reason of such change; and the remainder of the cost of the rearrangement shall be borne by the parties hereto pursuant to the foregoing subdivision of this section.

(C) If Department after notice of a rearrangement given to Utility changes the right of way of the freeway or the service road which occasioned such notice, or if the highway or contemplated highway in respect to which a notice of rearrangement hereunder was given ceases to be a freeway or service road (with or without amended, revised or new notice given to Utility), before the completion of such rearrangement or of the work on that portion of the public road which occasioned such notice, Department will pay in entirety that portion of the cost of the rearrangement expended by Utility before such change or happening to the extent Utility would have received a greater reimbursement in respect to said portion of the cost of the rearrangement under the foregoing subdivisions hereof had such change or happening not occurred; and the remainder of the cost of the rearrangement shall be borne by the parties hereto pursuant to the foregoing subdivisions of this section.

(D) If Department shall require the rearrangement of any utility facilities by Utility more than once within a period of ten (10) years, Department shall pay in entirety the cost of such second rearrangement and of any subsequent rearrangement within such ten (10) year period in those cases where the notice given by the Department to Utility of such second rearrangement or of any subsequent rearrangement is given by Department to Utility on or subsequent to the date of this Amendment of Agreement.

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Section 10. Upon completion of each rearrangement of utility facilities hereunder, and the discharge by Department of its obligations to Utility hereunder in respect thereto, Utility shall quitclaim to Department or its nominee upon demand all of its right, title and interest Utility shall extend to any real property (whether within or without the right of way of a freeway or other public road) situated at a distance greater than twelve and one-half (12 ½) feet from the center line of such utility facilities so dismantled, then, upon agreement by Utility and Department as to the terms and conditions thereof, Utility shall execute a quitclaim deed to Department of its right, title and interest in all such real property whether situated at a distance lesser or greater than twelve and one-half (12 ½) feet from said center line of such dismantled utility facilities, but, if Utility and Department are unable to agree as to such terms and conditions, Utility's obligation hereunder shall extend only to its right, title and interest in such real property situated at a distance not greater than twelve and one-half (12 ½) feet from said center line of such dismantled utility facilities.

Section 11. Whenever a rearrangement includes the dismantling of existing utility facilities located on a private right of way of Utility and any reinstallations corresponding thereto are located within the right of way of a public road, there shall automatically vest in Utility upon the termination of this agreement like rights in real property, if any, in and to such corresponding new location of such reinstallations as Utility may have had, if any, in its corresponding old location on which was situate such utility facilities entirely dismantled under a rearrangement of utility facilities hereunder, provided, however, that

(a) the rights to so vest in Utility under this Section 11 shall not exceed the rights quitclaimed to Department by Utility under Section 10 hereof, and

(b) the real property to which such rights relate shall not in any event exceed a strip twenty-five (25) feet in width. Upon such termination of this agreement, if so requested in writing by Utility and upon preparation by Utility and submission to Department of appropriate legal descriptions of such rights in real property, Department shall execute as to such rights Joint Use Agreements with Utility in form identical with or similar to

present Right of Way Form 38 of Department or to said Form as the same may, from time to time, be revised or amended by Department.

Section 12. Notwithstanding this contract, the State of California hereby reserves all its sovereign powers and any exercise thereof shall be superior and alternative to this contract.

Section 13. To the extent the provisions of this agreement may be inconsistent with the provisions of that certain Procedural Agreement between the parties hereto dated October 25, 1948, the provisions hereof shall prevail.

IN WITNESS WHEREOF the parties hereto have executed this agreement the day and year first above written.

**STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS**

**CALIFORNIA WATER SERVICE
COMPANY**